

ASSEMBLY BILL

No. 2662

Introduced by Assembly Member Brewer

February 25, 2000

An act to amend Section 3600 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2662, as introduced, Brewer. Workers' compensation.

Existing law provides that liability for workers' compensation shall exist against an employer for any injury sustained by his or her employees arising out of and in the course of employment if certain conditions are met.

This bill would make nonsubstantative, technical changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3600 of the Labor Code is
2 amended to read:
3 3600. (a) Liability for the compensation provided by
4 this division, in lieu of any other liability whatsoever to
5 any person except as otherwise specifically provided in
6 Sections 3602, 3706, and 4558, shall, without regard to
7 negligence, exist against an employer for any injury
8 sustained by his or her employees arising out of and in the
9 course of the employment and for the death of any

1 employee if the injury proximately causes death, in those
2 cases where the following conditions of compensation
3 concur:

4 (1) ~~Where~~ *If*, at the time of the injury, both the
5 employer and the employee are subject to the
6 compensation provisions of this division.

7 (2) ~~Where~~ *If*, at the time of the injury, the employee
8 is performing service growing out of and incidental to his
9 or her employment and is acting within the course of his
10 or her employment.

11 (3) ~~Where~~ *If* the injury is proximately caused by the
12 employment, either with or without negligence.

13 (4) ~~Where~~ *If* the injury is not caused by the
14 intoxication, by alcohol or the unlawful use of a controlled
15 substance, of the injured employee. As used in this
16 paragraph, “controlled substance” shall have the same
17 meaning as prescribed in Section 11007 of the Health and
18 Safety Code.

19 (5) ~~Where~~ *If* the injury is not intentionally
20 self-inflicted.

21 (6) ~~Where~~ *If* the employee has not willfully and
22 deliberately caused his or her own death.

23 (7) ~~Where~~ *If* the injury does not arise out of an
24 altercation in which the injured employee is the initial
25 physical aggressor.

26 (8) ~~Where~~ *If* the injury is not caused by the
27 commission of a felony, or a crime—~~which~~ *that* is
28 punishable as specified in subdivision (b) of Section 17 of
29 the Penal Code, by the injured employee, for which he or
30 she has been convicted.

31 (9) ~~Where~~ *If* the injury does not arise out of *the*
32 voluntary participation in any off-duty recreational,
33 social, or athletic activity not constituting part of the
34 employee’s work-related duties, except—~~where~~ *if* these
35 activities are a reasonable expectancy of, or are expressly
36 or impliedly required by, the employment. The
37 administrative director shall promulgate reasonable rules
38 and regulations requiring employers to post and keep
39 posted in a conspicuous place or places a notice advising
40 employees of the provisions of this subdivision. Failure of

1 the employer to post the notice shall not constitute an
2 expression of intent to waive the provisions of this
3 subdivision.

4 (10) Except for psychiatric injuries governed by
5 subdivision (e) of Section 3208.3, ~~where~~ if the claim for
6 compensation is filed after notice of termination or layoff,
7 including voluntary layoff, and the claim is for an injury
8 occurring prior to the time of notice of termination or
9 layoff, no compensation shall be paid unless the employee
10 demonstrates by a preponderance of the evidence that
11 one or more of the following conditions apply:

12 (A) The employer has notice of the injury, as provided
13 under Chapter 2 (commencing with Section 5400), prior
14 to the notice of termination or layoff.

15 (B) The employee's medical records, existing prior to
16 the notice of termination or layoff, contain evidence of
17 the injury.

18 (C) The date of injury, as specified in Section 5411, is
19 subsequent to the date of the notice of termination or
20 layoff, but prior to the effective date of the termination
21 or layoff.

22 (D) The date of injury, as specified in Section 5412, is
23 subsequent to the date of the notice of termination or
24 layoff.

25 For purposes of this paragraph, an employee provided
26 notice pursuant to Sections 44948.5, 44949, 44951, 44955,
27 ~~44955.6~~, 72411, 87740, and 87743 of the Education Code
28 shall be considered to have been provided a notice of
29 termination or layoff only upon a district's final decision
30 not to reemploy that person.

31 A notice of termination or layoff that is not followed
32 within 60 days by that termination or layoff shall not be
33 subject to the provisions of this paragraph, and this
34 paragraph shall not apply until receipt of a later notice of
35 termination or layoff. The issuance of frequent notices of
36 termination or layoff to an employee shall be considered
37 a bad faith personnel action and shall make this
38 paragraph inapplicable to the employee.

39 (b) ~~Where~~ If an employee, or his or her dependents,
40 receives the compensation provided by this division and

1 secures a judgment for, or settlement of, civil damages
2 pursuant to those specific exemptions to the employee's
3 exclusive remedy set forth in subdivision (b) of Section
4 3602 and Section 4558, the compensation paid under this
5 division shall be credited against the judgment or
6 settlement, and the employer shall be relieved from the
7 obligation to pay further compensation to, or on behalf of,
8 the employee or his or her dependents up to the net
9 amount of the judgment or settlement received by the
10 employee or his or her heirs, or that portion of the
11 judgment as has been satisfied.

